

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

**JOHNNY BAILEY
#01960468**

v.

No. 3:14-cv-144-DPM-JTK

PLAINTIFF

MATT HALL

DEFENDANT

ORDER

On *de novo* review, the Court adopts in part and declines in part the recommendation, *No 41*, and overrules Bailey's objections, *No 42*. FED. R. CIV. P. 72(b)(3). The Court adopts the recommendation as to exhaustion and sovereign immunity. Bailey's claims about conditions of confinement and the blessing of food are dismissed without prejudice for failure to exhaust. And Bailey's monetary claims against Hall in his official capacity are dismissed with prejudice based on sovereign immunity. The Court declines the recommendation on qualified immunity without prejudice and refers that piece of the summary-judgment motion back to Magistrate Judge Kearney for further consideration and a new recommendation.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

10 August 2015